

A SUBSTITUTE RESOLUTION BY**CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CHANGE ORDER TO CONTRACT NO. FC-7134-99; DESIGN/BUILD OF NANCY CREEK TRUNK SEWER CAPACITY MANAGEMENT FACILITY WITH WESTERN SUMMIT CONSTRUCTORS, INC., ON BEHALF OF THE DEPARTMENT OF PUBLIC WORKS, IN AN AMOUNT NOT TO EXCEED TWO MILLION THREE HUNDRED SIXTEEN THOUSAND EIGHT HUNDRED TWENTY-SEVEN DOLLARS (\$2,316,827.00); ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER: 2J27 573001 M24I02429999.

WHEREAS, the City of Atlanta entered into Contract No. FC-7134-99; Design/Build of Nancy Creek Trunk Sewer Capacity Management Facility; [1] Phase I; Preliminary Design; and [2] Phase II; Owner Option For Final Design and Construction-Cost Plus Fee with a Guaranteed Maximum Price (the "Contract") with Western Summit Constructors, Inc. (the "Contractor") in connection with various Consent Decrees to which the City is a party; and

WHEREAS, the Contract included the provision of services by the Contractor in 2 phases, the first phase being Phase 1, Preliminary Design Services, in an amount not to exceed One Million Two Hundred Fifty Thousand Four Hundred Forty-four Dollars (\$1,250,444.00); and

WHEREAS, the Contract also included an option in the City's favor to allow the Contractor to perform Phase 2 services, which included completing the preliminary design prepared in Phase I and constructing the Nancy Creek Pump Station and support facilities for a guaranteed maximum price to be established in Phase I; and

WHEREAS, the Contractor has performed the Phase 1 services in the Contract satisfactorily and the City anticipates receiving and evaluating the Contractor's guaranteed maximum price proposal for Phase 2 services in the near future; and

WHEREAS, in addition to the Phase 1 services and potential Phase 2 services, the City has identified additional work scope necessary to be completed in connection with and within the general scope of services contemplated by the Contract in order to comply with the Consent Decrees; and

WHEREAS, the additional scope of services includes site preparation work and the demolition of an existing pump house/steam plant; and

WHEREAS, the Commissioner of the Department of Public Works and the Director of the Bureau of Purchasing and Real Estate have recommended that the City allow these additional services to be performed by the Contractor as Phase 1.5 ("Phase 1.5 Services") of the Contract in an amount not to exceed Two Million Three Hundred Sixteen Eight Hundred Twenty-seven Dollars (\$2,316,827.00) in order to adhere to the applicable Consent Decrees; and

WHEREAS, the City has determined that it is desirable and in the best interests of the City to issue a Change Order to the Contract to provide that the Contractor will perform the Phase 1.5 Services under the Contract;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor is authorized to execute a Change Order to the Contract to provide that the Contractor will perform Phase 1.5 Services under the Contract in an amount not to exceed Two Million Three Hundred Sixteen Eight Hundred Twenty-seven Dollars (\$2,316,827.00); and

BE IT FURTHER RESOLVED, that the Director of Purchasing and Law Department are authorized to prepare an appropriate Change Order to the Contract for execution by the Mayor, to be approved by the City Attorney as to form, reflecting the terms and conditions applicable to the Contractor's performance of Phase 1.5 Services.

BE IT FURTHER RESOLVED, that the Change Order will not become binding on the City, and the City will incur no liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk and delivered to the Contractor.

BE IT FURTHER RESOLVED, that the Phase 1.5 Services will be charged to and paid from fund, account and center number: 2J27 573001 M24I02429999.